

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

ANGELA HOPKINS

VS.

WAL-MART STORES, INC.

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CIVIL ACTION NO.: 5:18-CV-823

**INDEX OF DOCUMENTS FILED**  
**WITH REMOVAL ACTION**

- A. Plaintiff's Original Petition.
- B. Certified Mail envelope addressed to Wal-Mart Stores, Inc.
- C. Defendant Wal-Mart Stores, Inc.'s Original Answer.
- D. Defendant Wal-Mart Stores, Inc.'s Demand for Jury Trial.
- E. Change of Address filed for Dennis L. Richard.
- F. Case History from Bexar County District Clerk.
- G. List of Counsel of Record.

# **Exhibit A**

FILED  
7/10/2018 5:14 PM  
Donna Kay McKinney  
Bexar County District Clerk  
Accepted By: Roxanne Mujica

CIT CML/SAC 3  
W/JD

CAUSE NO. **2018CI12661**

ANGELA HOPKINS

Plaintiff,

VS.

WAL-MART STORES, INC.

Defendant.

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IN THE DISTRICT COURT

37TH JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, ANGELA HOPKINS, hereinafter referred to as Plaintiff or "Hopkins", complaining of and about WAL-MART STORES, INC., hereinafter referred to as Defendant or "Wal-Mart", and for cause of action files this her Plaintiff's Original Petition, showing to the Court as follows:

**I.**

**DISCOVERY CONTROL PLAN**

1. Plaintiff intends to conduct discovery under Level Two, as described in Rule 190.3 of the Texas Rules of Civil Procedure. However, Plaintiff reserves the right to move this Court to enter a discovery control plan in accordance with Rule 190.4 of the Texas Rules of Civil Procedure.

**II.**

**PARTIES AND SERVICE**

2. Plaintiff, ANGELA HOPKINS, is a citizen of the United States and the State of

Texas and resides in San Antonio, Bexar County, Texas.

3. Defendant, Wal-Mart Stores, Inc. is a for profit corporation, doing business in Bexar County, Texas. Walmart may be served with process by delivering a copy of Plaintiff's Original Petition to C. Douglas McMillon, President and Chief Executive Officer of Walmart, by certified mail return receipt requested at the corporate headquarters, 702 S.W. 8<sup>th</sup> Street, Bentonville, AK 72716.

### III.

#### JURISDICTION AND VENUE

4. This Court has jurisdiction over the subject matter and the parties to this case and all conditions precedent to the filing of this suit have been met and venue properly lies in Bexar County, Texas. Plaintiff's fall and the injuries that she suffered occurred in Bexar, County Texas.

### IV.

#### JURY DEMAND

5. Plaintiff is requesting trial by jury and will tender the statutory jury fee.

### V.

#### AGENCY

6. Whenever in this petition it is alleged that the Defendant did any act or thing or failed to do an act or thing, it is meant that Defendant's officers, agents, servants, employees or representatives did such act or thing or failed to do such act or thing and that at the time such act or thing was done, it was done with the full

authorization or ratification of or by Defendant and was done in the normal and routine course and scope of employment of Defendant's officers, agents, servants, employees or representatives.

V.

FACTS

7. On or about December 3, 2016, Plaintiff was a shopper at Wal-Mart's store 3107.

Hopkins slipped and fell in a dressing room located within the store. It had been raining before the accident and Defendant's employees were aware that a leak in the roof of the store was allowing water to accumulate in certain areas. Plaintiff was ushered by a Wal-Mart employee from one dressing room that was wet to another dressing room. The second dressing room had water that had accumulated and was the cause of Hopkins slip and fall. Hopkins was able to catch herself with her right upper extremity on the seat to avoid falling completely to the floor. There were no warnings posted about the wet condition of the second dressing room and no employee of Defendant warned Hopkins that there was water in the second dressing room. Clearly, Defendant failed to maintain the dressing rooms and failed to warn Hopkins and other shoppers about the wet condition.

8. As a customer and a patron of Wal-Mart, Plaintiff was an "invitee" as that term is defined under Texas Common Law. Defendant owed Plaintiff the legal duty to exercise reasonable care to protect her from unreasonably dangerous conditions

on the premises of Wal-Mart that are known or discoverable. Defendant had both actual and constructive knowledge of the unreasonably dangerous condition posed by the wet floor in the dressing room without any warnings or cones. Defendant knew that the roof was leaking, knew that the floor was wet and knew that no warning signs or cones had been employed to protect the shoppers at store 3107. As retail store owners and operators, like Wal-Mart, are engaged in the business of attracting customers to frequent their facility to purchase goods. Defendant has a duty to provide a safe place to shop and a duty to exercise ordinary care in insuring that patrons that they invite into the store may occupy the facility without confronting unreasonably dangerous conditions.

**VI.**

**PREMISES LIABILITY**

9. Plaintiff incorporates by reference the allegations contained in paragraphs 1-8 as if fully rewritten herein.
10. Defendant, through its employees, had actual and constructive knowledge of the wet condition of the dressing room floor at Wal-Mart store number 3107; the wet condition of the dressing room floor posed an unreasonable risk of harm to Hopkins, an invitee; Wal-Mart did not exercise reasonable care to reduce or eliminate the risk; and Defendant's failure to exercise reasonable care proximately caused Hopkins personal injuries. Plaintiff seeks damages against



Defendant for Premises Liability.

VII.

ACTIVE NEGLIGENCE

11. Plaintiff incorporates by reference the allegations contained in paragraphs 1-8 as if fully rewritten herein.
  12. Defendant, through its employees, engaged in active negligence when Defendant escorted Plaintiff from one leaking dressing room to the second dressing room that had accumulated water on the floor. Defendant failed to use ordinary care, that is, failed to do that which a person of ordinary prudence would have done under the same or similar circumstances or did that which a person of ordinary prudence would not have done under the same or similar circumstances. Plaintiff seeks damages against Defendant for Active Negligence.
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VIII.

DAMAGES

13. By reason of Defendants' acts and conduct, as herein alleged, Plaintiff has been damaged as follows:
  - a) Physical pain and mental anguish sustained in the past.
  - b) Physical pain and mental anguish that, in reasonable probability, Plaintiff will sustain in the future.
  - c) Loss of earning capacity sustained in the past.
  - d) Loss of earning capacity that, in reasonable probability, Plaintiff will sustain

in the future.

e) Physical impairment sustained in the past.

f) Physical impairment that, in reasonable probability, Plaintiff will sustain in the future.

g) Medical care expenses incurred in the past.

h) Medical care expenses that, in reasonable probability, Plaintiff will sustain in the future.

14. Pursuant to Rule 47 of the Texas Rules of Civil Procedure, Plaintiff hereby seeks monetary relief over \$200,000 but not more than \$1,000,000.00 including costs, expenses and pre- and post-judgment interests. Plaintiff further requests that the non-expedited rules apply in this case.

#### IX.

#### REQUEST FOR DISCLOSURE

15. Under Texas Rule of Civil Procedure 194, Plaintiff requests that Defendant disclose within fifty (50) days of the service of this request the information or material described in Texas Rule of Civil Procedure 194.2.

#### X.

#### PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff, ANGELA HOPKINS, respectfully prays that Defendant WAL-MART STORES, INC. be cited to appear and



answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendant for damages in an amount within the jurisdictional limits of the Court, together with interest as allowed by law, costs of court, and such other and further relief to which the Plaintiff may be justly entitled at law or in equity.

Respectfully Submitted,

 kennard  
richard PC

/s/ Dennis L. Richard  
Dennis L. Richard  
Texas Bar No. 16842600  
100 N.E. Loop 410, Suite 610  
San Antonio, Texas 78216  
Main: 210.314.5688  
Fax: 210.314.5687  
[Dennis.richard@kennardlaw.com](mailto:Dennis.richard@kennardlaw.com)

**ATTORNEY FOR PLAINTIFF  
ANGELA HOPKINS**

**PLAINTIFF HEREBY DEMANDS TRIAL BY JURY**

# **Exhibit B**



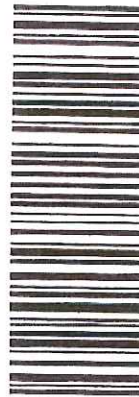
**Donna Kay McKinney**  
Bexar County District Clerk  
101 W. Nueva, Suite 217  
SAN ANTONIO, TEXAS 78205

RETURN SERVICE REQUESTED

WRL-MART STORES INC  
C/O C. DOUGLAS MCWILLON  
702 SW 8TH ST  
BENTONVILLE, AK 72716-6209

2018C112861 7-11/2018 CITCM DANIELA RRR05

7016 1370 0001 0345 2587



GAINTED MAIL



U.S. POSTAGE®  
ZIP 72007 \$006.88<sup>0</sup>  
0700250001 JUL 12 2016



JUL 12 2016

727166209 HOCO



# **Exhibit C**

FILED  
8/3/2018 2:22 PM  
Donna Kay McKinney  
Bexar County District Clerk  
Accepted By: Martha Medellin

NO. 2018CI12661

ANGELA HOPKINS	§	IN THE DISTRICT COURT
	§	
VS.	§	37 <sup>TH</sup> JUDICIAL DISTRICT
	§	
WAL-MART STORES, INC.	§	BEXAR COUNTY, TEXAS

**DEFENDANT'S ORIGINAL ANSWER TO  
PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Wal-Mart Stores, Inc., Defendant in the above numbered and entitled cause of action, and files this Original Answer to Plaintiff's Original Petition and for support thereof would respectfully show unto the Court as follows:

I.

Defendant asserts denials, under Rule 92 of the Texas Rules of Civil Procedure, to each and every allegation contained in the said Petition, and demands strict proof thereof.

II.

Pleading further and without waiving the foregoing, Defendant asserts that if Plaintiff suffered injuries as a result of the incident made the basis of this lawsuit, which Defendant expressly denies by the filing of this pleading, that said injuries were caused in whole or in part by Plaintiff's own negligence or responsibility. Accordingly, Defendant asserts all rights, privileges and remedies afforded or available to them pursuant to Chapter 33 of the Texas Civil Practices and Remedies Code.

III.

Pleading further and without waiving the foregoing, Defendant asserts that the incident in question was proximately caused or solely proximately caused by the negligent and/or wrongful conduct of third-parties outside the control of this Defendant.

IV.

Pleading further and without waiving the foregoing, Defendant asserts that any damages allegedly suffered by Plaintiff as a result of the incident made the basis of this lawsuit, which Defendant expressly denies by the filing of this pleading, were exacerbated by Plaintiff's failure to mitigate said damages. Accordingly, Defendant asserts all rights, privileges and remedies afforded or available to them pursuant to the Texas Civil Practices and Remedies Code.

V.

Pleading further and without waiving the foregoing, Defendant specifically reserves the right to amend this Answer, as is their right under the Texas Rules of Civil Procedure.

PREMISES CONSIDERED, Defendant, Wal-Mart Stores, Inc. prays that Plaintiff take nothing by this lawsuit, and that Defendant be allowed to go hence without day and recover all of theirs costs and attorneys' fees, and such other and further relief, both special and general, at law or in equity, to which they may show themselves justly entitled.

Respectfully submitted,

Daw & Ray  
A Limited Liability Partnership

/s/ Willie Ben Daw, III

Willie Ben Daw, III; TBN: 05594050

Email: [wbdaw@dawray.com](mailto:wbdaw@dawray.com)

James K. Floyd; TBN: 24047626

Email: [jfloyd@dawray.com](mailto:jfloyd@dawray.com)

14100 San Pedro Ave., Suite 302

San Antonio, Texas 78232

(210) 224-3121 Telephone

(210) 224-3188 Facsimile

**ATTORNEYS FOR DEFENDANT**



**CERTIFICATE OF SERVICE**

The undersigned does hereby certify that a true and correct copy of the above and foregoing instrument has been served upon all known counsel of record by Electronic Service on this 3rd day of August, 2018.

Dennis L. Richard  
KENNARD RICHARD P.C.  
100 N.E. Loop 410, Suite 610  
San Antonio, Texas 78216  
*Via Email: [Dennis.richard@kennarelaw.com](mailto:Dennis.richard@kennarelaw.com)*

/s/ Willie Ben Daw, III  
Willie Ben Daw, III

# **Exhibit D**

FILED  
8/3/2018 2:28 PM  
Donna Kay McKinney  
Bexar County District Clerk  
Accepted By: Cynthia Gonzales

NO. 2018CI12661

ANGELA HOPKINS	§	IN THE DISTRICT COURT
	§	
VS.	§	37 <sup>TH</sup> JUDICIAL DISTRICT
	§	
WAL-MART STORES, INC.	§	BEXAR COUNTY, TEXAS

**DEFENDANT'S DEMAND FOR JURY TRIAL**

COMES NOW, Defendant Wal-Mart Stores, Inc. and hereby demands a jury trial as is their right under Tex. Const. Art. I, § 2. Such demand for jury trial is hereby made more than 30 days before the date this case is set for trial in accordance with Tex. R. Civ. P. 216. Defendant tenders the jury fee contemporaneously with the filing of this jury demand which they may show themselves justly entitled.

Respectfully submitted,

DAW & RAY  
A Limited Liability Partnership

/s/ Willie Ben Daw, III

Willie Ben Daw, III; TBN: 05594050

Email: [wbdaw@dawray.com](mailto:wbdaw@dawray.com)

James K. Floyd; TBN: 24047626

Email: [jfloyd@dawray.com](mailto:jfloyd@dawray.com)

14100 San Pedro Ave., Suite 302

San Antonio, Texas 78232

(210) 224-3121 Telephone

(210) 224-3188 Facsimile

**ATTORNEYS FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

The undersigned does hereby certify that a true and correct copy of the above and foregoing instrument has been served upon all known counsel of record by Electronic Service on this 3<sup>rd</sup> day of August, 2018.

Dennis L. Richard  
KENNARD RICHARD P.C.  
100 N.E. Loop 410, Suite 610  
San Antonio, Texas 78216  
*Via Email: [Dennis.richard@kennarelaw.com](mailto:Dennis.richard@kennarelaw.com)*

/s/ Willie Ben Daw, III  
Willie Ben Daw, III

# **Exhibit E**

FILED  
8/2/2018 5:11 PM  
Donna Kay McKinney  
Bexar County District Clerk  
Accepted By: Katelynn Gonzalez

**CAUSE NO. 2018CI12661**

**ANGELA HOPKINS**

**Plaintiff,**

**VS.**

**WAL-MART STORES, INC.**

**Defendant.**

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**IN THE DISTRICT COURT**

**37<sup>th</sup> JUDICIAL DISTRICT**

**BEXAR COUNTY, TEXAS**

**NOTICE OF CHANGE OF ADDRESS**

**To the Clerk of Court and All Parties of Record:**

Please take notice of the following change of address:

Dennis L. Richard  
**The Law Office of Dennis L. Richard**  
14255 Blanco Rd  
San Antonio, TX 78216  
Telephone: (210) 308-6600  
Facsimile: (210) 308-6939  
Email: [d.richard@osgclaw.com](mailto:d.richard@osgclaw.com)

Attorney Dennis L. Richard shall remain attorney-in-charge for Plaintiff and should continue to receive all notices, filings, and correspondence in this action.

Respectfully submitted,

/s/ Dennis L. Richard  
Dennis L. Richard  
Texas Bar No. 16842600  
**The Law Office of Dennis L. Richard**  
14255 Blanco Road  
San Antonio, TX 78216  
Telephone: (210) 308-6600  
Facsimile: (210) 308-6939  
Email: [d.richard@osgclaw.com](mailto:d.richard@osgclaw.com)  
**ATTORNEY FOR PLAINTIFF**



**CERTIFICATE OF SERVICE**

I hereby certify that on this **2<sup>nd</sup> day of August, 2018** a true and correct copy of *Plaintiff's Notice of Change of Address* was served on counsel for Defendant via e-filing as follows:

C. Douglas McMillon  
President and Chief Executive Officer  
702 S.W. 8th Street  
Bentonville, AK 72716

/s/ Dennis L. Richard  
Dennis L. Richard

# **Exhibit F**

GERARD C. RICKHOFF



DONNA KAY MCKINNEY

COUNTY CLERK & DISTRICT CLERK  
COURT RECORDS SEARCH

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## Case #2018CI12661

Name: ANGELA HOPKINS

Date Filed : 07/10/2018

Case Status : PENDING

Litigant Type : PLAINTIFF

Court : 037

Docket Type : PREMISES

Business Name :

Style : ANGELA HOPKINS

Style (2) : vs WAL-MART STORES INC

# Case History

Currently viewing 1 through 6 of 6 records

Sequence	Date Filed	Description
P00006	8/3/2018	JURY DEMAND JURY FEE PAID
P00005	8/3/2018	ORIGINAL ANSWER OF WAL-MART STORES INC
P00004	8/2/2018	CHANGE OF ADDRESS FILED FOR DENNIS L RICHARD
P00003	7/10/2018	JURY DEMAND JURY FEE PAID
P00002	7/10/2018	SERVICE ASSIGNED TO CLERK 3
P00001	7/10/2018	PETITION

# **Exhibit G**

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

ANGELA HOPKINS

VS.

WAL-MART STORES, INC.

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§  
§

CIVIL ACTION NO.: 5:18-CV-823

**LIST OF COUNSEL OF RECORD**

1. Dennis L. Richard; TBN: 16842600  
Email: [d.richard@osgclaw.com](mailto:d.richard@osgclaw.com)  
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San Antonio, Texas 78216  
(210) 308-6600 Telephone  
(210) 308-6939 Facsimile  
**ATTORNEYS FOR PLAINTIFF,  
ANGELA HOPKINS**
2. Willie Ben Daw, III, TBN: 05594050  
Email: [wbdaw@dawray.com](mailto:wbdaw@dawray.com)  
James K. Floyd; TBN: 24047628  
Email: [jfloyd@dawray.com](mailto:jfloyd@dawray.com)  
Adelita Cavada; SBN: 24084882  
Email: [acavada@dawray.com](mailto:acavada@dawray.com)  
Daw & Ray, LLP  
14100 San Pedro Ave., Suite 302  
San Antonio, Texas 78232  
(210) 224-3121 Telephone  
(210) 224-3188 Facsimile  
**ATTORNEYS FOR DEFENDANT,  
WAL-MART STORES, INC.  
(NOW KNOWN AS WALMART INC.)**